## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE: PHILIPS RECALLED CPAP,

BI-LEVEL PAP, AND MECHANICAL

VENTILATOR PRODUCTS

LITIGATION

:

:

MDL No. 3014

This Document Relates to:

CHAD BERKEBILE

: SHORT FORM COMPLAINT FOR

PERSONAL INJURIES, DAMAGES,

Master Docket: Misc. No. 21-mc-1230-JFC

AND DEMAND FOR JURY TRIAL

Plaintiff(s) incorporate(s) by reference the Amended Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial filed in *In re Philips Recalled CPAP*, *Bi-Level PAP*, and Mechanical Ventilator Products Litigation, MDL No. 3014, Master Docket Misc. No. 21-mc-1230 (the "Master Long Form Complaint"). This Short Form Complaint adopts the allegations, claims, and requested relief as set forth in the Master Long Form Complaint. As necessary herein, Plaintiff(s) may include: (a) additional claims and allegations against Defendants; and/or (b) additional claims and allegations against other Defendants not listed in the Master Long Form Complaint.

Plaintiff(s) further allege(s) as follows:

## I. DEFENDANTS

<ol> <li>Plaintiff(s) name(s) the foll</li> </ol>	owing Defendants in this action:
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Koninklijke Philips N.V.

Philips North America LLC.

Philips RS North America LLC.

		Philips Holding USA Inc.
		Philips RS North America Holding Corporation.
		Polymer Technologies, Inc.
		Polymer Molded Products LLC.
II.	PLAI	NTIFF(S)
	2.	Name of Plaintiff(s): CHAD BERKEBILE
	3.	Name of spouse of Plaintiff (if loss of consortium claim is being made):  N/A
	4.	Name and capacity (i.e., executor, administrator, guardian, conservator, etc.) of other Plaintiff, if any:  N/A
	5.	State(s) of residence of Plaintiff(s) (if the Recalled Device user is deceased, residence at the time of death): PENNSYLVANIA
III.	DES	IGNATED FORUM
	6.	Identify the forum (United States District Court and Division) in which the Plaintiff would have filed in the absence of direct filing:  Western District of Pennsylvania

## IV. USE OF A RECALLED DEVICE

7. Plaintiff used the following Recalled Device(s):

E30 (Emergency Use Authorization)	Dorma 500
DreamStation ASV	<b>▼</b> REMstar SE Auto
☐ DreamStation ST, AVAPS	Trilogy 100
SystemOne ASV4	Trilogy 200
C-Series ASV	Garbin Plus, Aeris, LifeVent
C-Series S/T and AVAPS	A-Series BiPAP Hybrid A30 (not marketed
OmniLab Advanced +	in U.S.)
SystemOne (Q-Series)	A-Series BiPAP V30 Auto
☐ DreamStation	A-Series BiPAP A40
DreamStation Go	A-Series BiPAP A30
Dorma 400	Other Philips Respironics Device; if other,
	identify the model:
	Serial Number: P08559067497A
v. injuries	
8. Plaintiff alleges the following Device together with the attendather with:	g physical injuries as a result of using a Recalled dant symptoms and consequences associated
COPD (new or worsening)	
Asthma (new or worsening	g)
Pulmonary Fibrosis	
Other Pulmonary Damage	/Inflammatory Response
✓ Cancer KIDNEY	(specify cancer)
✓ Kidney Damage	
Liver Damage	

VI.

	Heart Damage	
	Death	
	Other (specify)	
	nephrectomy of right	kidney
CAU	SES OF ACTION/DA	MAGES
9.	in the Master Long F	ilips N.V., Plaintiff(s) adopt(s) the following claims asserted form Complaint for Personal Injuries, Damages and Demand at allegations and prayer for relief with regard thereto, as set
	✓ Count I:	Negligence
	✓ Count II:	Strict Liability: Design Defect
	✓ Count III:	Negligent Design
	✓ Count IV:	Strict Liability: Failure to Warn
	Count V:	Negligent Failure to Warn
	Count VI:	Negligent Recall
	Count VII:	Battery
	Count VIII:	Strict Liability: Manufacturing Defect
	Count IX:	Negligent Manufacturing
	✓ Count X:	Breach of Express Warranty
	Count XI:	Breach of the Implied Warranty of Merchantability
	Count XII:	Breach of the Implied Warranty of Usability
	Count XIII:	Fraud
	Count XIV:	Negligent Misrepresentation

	Count XV:	Negligence Per Se
	Count XVI:	Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
	Count XVII:	Unjust Enrichment
	Count XVIII:	Loss of Consortium
	Count XIX:	Survivorship and Wrongful Death
	Count XX:	Medical Monitoring
Ŀ	✓ Count XXI:	Punitive Damages
	Count XXII:	Other [specify below]
S	As to Philips North	h America LLC, Plaintiff(s) adopt(s) the following claims er Long Form Complaint for Personal Injuries, Damages and
2 ] 2	asserted in the Mast Demand for Jury Tria as set forth therein:	er Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto,
2 1 2 [	asserted in the Maste Demand for Jury Tria as set forth therein:  Count I:	er Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto,  Negligence
2 1 2 [	asserted in the Maste Demand for Jury Tria as set forth therein:  Count I:  Count II:	er Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto,  Negligence  Strict Liability: Design Defect
2 1 2 [	asserted in the Master Demand for Jury Tria as set forth therein:  Count I:  Count II:  Count II:	er Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto,  Negligence  Strict Liability: Design Defect  Negligent Design
2 1 2 [	asserted in the Master Demand for Jury Tria as set forth therein:  Count I:  Count II:  Count III:  Count IV:	er Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto,  Negligence  Strict Liability: Design Defect
2 1 2 [	asserted in the Master Demand for Jury Tria as set forth therein:  Count I:  Count II:  Count II:	er Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto,  Negligence  Strict Liability: Design Defect  Negligent Design
2 1 2 [	asserted in the Master Demand for Jury Tria as set forth therein:  Count I:  Count II:  Count III:  Count IV:	er Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto,  Negligence  Strict Liability: Design Defect  Negligent Design  Strict Liability: Failure to Warn
2 1 2 [	asserted in the Master Demand for Jury Trial as set forth therein:  Count I:  Count II:  Count III:  Count IV:  Count IV:	er Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto,  Negligence  Strict Liability: Design Defect  Negligent Design  Strict Liability: Failure to Warn  Negligent Failure to Warn
2 1 2 [	asserted in the Master Demand for Jury Tria as set forth therein:  Count I:  Count II:  Count III:  Count IV:  Count IV:  Count V:	er Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto,  Negligence  Strict Liability: Design Defect  Negligent Design  Strict Liability: Failure to Warn  Negligent Failure to Warn  Negligent Recall
2 1 2 [	asserted in the Master Demand for Jury Tria as set forth therein:  Count I:  Count II:  Count III:  Count IV:  Count V:  Count VI:	er Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto,  Negligence  Strict Liability: Design Defect  Negligent Design  Strict Liability: Failure to Warn  Negligent Failure to Warn  Negligent Recall  Battery

Count X:	Breach of Express Warranty
Count XI:	Breach of the Implied Warranty of Merchantability
Count XII:	Breach of the Implied Warranty of Usability
Count XIII:	Fraud
Count XIV:	Negligent Misrepresentation
Count XV:	Negligence Per Se
Count XVI:	Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
Count XVII:	Unjust Enrichment
Count XVIII:	Loss of Consortium
Count XIX:	Survivorship and Wrongful Death
Count XX:	Medical Monitoring
Count XXI:	Punitive Damages
Count XXII:	Other [specify below]
asserted in the Mas	forth America LLC, Plaintiff(s) adopt(s) the following claims ter Long Form Complaint for Personal Injuries, Damages and ial, and the allegations and prayer for relief with regard thereto
✓ Count I:	Negligence
✓ Count II:	Strict Liability: Design Defect
✓ Count III:	Negligent Design
Count IV:	Strict Liability: Failure to Warn

11.

✓ Count V:	Negligent Failure to Warn
Count VI:	Negligent Recall
Count VII:	Battery
Count VIII:	Strict Liability: Manufacturing Defect
Count IX:	Negligent Manufacturing
Count X:	Breach of Express Warranty
Count XI:	Breach of the Implied Warranty of Merchantability
Count XII:	Breach of the Implied Warranty of Usability
Count XIII:	Fraud
Count XIV:	Negligent Misrepresentation
Count XV:	Negligence Per Se
Count XVI:	Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
Count XVII:	Unjust Enrichment
Count XVIII:	Loss of Consortium
Count XIX:	Survivorship and Wrongful Death
Count XX:	Medical Monitoring
✓ Count XXI:	Punitive Damages
Count XXII:	Other [specify below]

12.	in the Master Long F	USA Inc., Plaintiff(s) adopt(s) the following claims asserted orm Complaint for Personal Injuries, Damages and Demand e allegations and prayer for relief with regard thereto, as set
	✓ Count I:	Negligence
	✓ Count II:	Strict Liability: Design Defect
	✓ Count III:	Negligent Design
	✓ Count IV:	Strict Liability: Failure to Warn
	✓ Count V:	Negligent Failure to Warn
	Count VI:	Negligent Recall
	Count VII:	Battery
	Count VIII:	Strict Liability: Manufacturing Defect
	Count IX:	Negligent Manufacturing
	✓ Count X:	Breach of Express Warranty
	Count XI:	Breach of the Implied Warranty of Merchantability
	Count XII:	Breach of the Implied Warranty of Usability
	Count XIII:	Fraud
	Count XIV:	Negligent Misrepresentation
	Count XV:	Negligence Per Se
	Count XVI:	Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
	Count XVII:	Unjust Enrichment
	Count XVIII:	Loss of Consortium
	Count XIX:	Survivorship and Wrongful Death
	Count XX:	Medical Monitoring

Count XXI:	Punitive Damages
Count XXII:	Other [specify below]
following claims as:	North America Holding Corporation, Plaintiff(s) adopt(s) the serted in the Master Long Form Complaint for Personal Injuries and for Jury Trial, and the allegations and prayer for relief with therein:
Count I:	Negligence
Count II:	Strict Liability: Design Defect
Count III:	Negligent Design
Count IV:	Strict Liability: Failure to Warn
Count V:	Negligent Failure to Warn
Count VI:	Negligent Recall
Count VII:	Battery
Count VIII:	Strict Liability: Manufacturing Defect
Count IX:	Negligent Manufacturing
Count X:	Breach of Express Warranty
Count XI:	Breach of the Implied Warranty of Merchantability
Count XII:	Breach of the Implied Warranty of Usability
Count XIII:	Fraud
Count XIV:	Negligent Misrepresentation
Count YV:	Negligence Per Se

Count XVI:	Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
Count XVII:	Unjust Enrichment
Count XVIII:	Loss of Consortium
Count XIX:	Survivorship and Wrongful Death
Count XX:	Medical Monitoring
Count XXI:	Punitive Damages
Count XXII:	Other [specify below]
To	-background Inc. Plaintiff(s) adopt(s) the following claims
accepted in the Mast	chnologies, Inc., Plaintiff(s) adopt(s) the following claims for Long Form Complaint for Personal Injuries, Damages and long the allegations and prayer for relief with regard thereto
accepted in the Mast	chnologies, Inc., Plaintiff(s) adopt(s) the following claims for Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto
asserted in the Mast Demand for Jury Tri	er Long Form Complaint for Personal Injuries, Damages and
asserted in the Mast Demand for Jury Tri as set forth therein:	er Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto
asserted in the Mast Demand for Jury Tri as set forth therein:  Count I:	ter Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto Negligence
asserted in the Mast Demand for Jury Tri as set forth therein:  Count I:  Count II:	ter Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto  Negligence  Strict Liability: Design Defect
asserted in the Mast Demand for Jury Tri as set forth therein:  Count I:  Count II:	neer Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto Negligence  Strict Liability: Design Defect  Negligent Design
asserted in the Mast Demand for Jury Tri as set forth therein:  Count I:  Count II:  Count III:  Count IV:	ter Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto Negligence  Strict Liability: Design Defect  Negligent Design  Strict Liability: Failure to Warn
asserted in the Mast Demand for Jury Tri as set forth therein:  Count I:  Count II:  Count IV:  Count IV:	neer Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto Negligence  Strict Liability: Design Defect  Negligent Design  Strict Liability: Failure to Warn  Negligent Failure to Warn
asserted in the Mast Demand for Jury Tri as set forth therein:  Count I:  Count II:  Count IV:  Count IV:  Count IV:	neer Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto Negligence  Strict Liability: Design Defect  Negligent Design  Strict Liability: Failure to Warn  Negligent Failure to Warn  Strict Liability: Manufacturing Defect
asserted in the Mast Demand for Jury Tri as set forth therein:  Count I:  Count II:  Count IV:  Count IV:  Count V:  Count VIII:  Count IX:	neer Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto Negligence  Strict Liability: Design Defect  Negligent Design  Strict Liability: Failure to Warn  Negligent Failure to Warn  Strict Liability: Manufacturing Defect  Negligent Manufacturing
asserted in the Mast Demand for Jury Tri as set forth therein:  Count I:  Count II:  Count IV:  Count IV:  Count V:  Count VIII:  Count IX:  Count IX:	neer Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto Negligence  Strict Liability: Design Defect  Negligent Design  Strict Liability: Failure to Warn  Negligent Failure to Warn  Strict Liability: Manufacturing Defect  Negligent Manufacturing  Fraud

Count XVIII:	Loss of Consortium
Count XIX:	Survivorship and Wrongful Death
Count XX:	Medical Monitoring
Count XXI:	Punitive Damages
Count XXII:	Other [specify below]
asserted in the Mas	ded Products LLC, Plaintiff(s) adopt(s) the following claims ter Long Form Complaint for Personal Injuries, Damages and ial, and the allegations and prayer for relief with regard thereto,
Count I:	Negligence
Count II:	Strict Liability: Design Defect
Count III:	Negligent Design
Count IV:	Strict Liability: Failure to Warn
Count V:	Negligent Failure to Warn
Count VIII:	Strict Liability: Manufacturing Defect
Count IX:	Negligent Manufacturing
Count XIII:	Fraud
Count XIV:	Negligent Misrepresentation
Count XVII:	Unjust Enrichment
Count XVIII:	Loss of Consortium
Count XIX:	Survivorship and Wrongful Death
Count XX:	Medical Monitoring

Count XXI:	Punitive Damages
Count XXII:	Other [specify below]
Complaint for Personabove, the additions  Plaintiff(s) assert(s)	against the Defendants identified in the Master Long Form nal Injuries, Damages and Demand for Jury Trial are alleged al facts, if any, supporting these allegations must be pleaded. It the following additional factual allegations against the ed in the Master Long Form Complaint for Personal Injuries, and for Jury Trial:
N/A	
Plaintiff(s)' damag	d(s) that additional parties may be liable or responsible for es alleged herein. Such additional parties, who will be hereafte for an areas follows (must name each Defendant and it
Plaintiff(s)' damag referred to as Def	es alleged herein. Such additional parties, who will be nereafte
Plaintiff(s)' damag referred to as Def citizenship):	es alleged herein. Such additional parties, who will be nereafte
Plaintiff(s)' damag referred to as Def citizenship):	es alleged herein. Such additional parties, who will be nereafte
Plaintiff(s)' damag referred to as Def citizenship):	es alleged herein. Such additional parties, who will be nereafte

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18.	Plaintiff(s) assert(s) the following additional claims and factual allegations against
	other Defendants named in Paragraph 16 above:

N/A

WHEREFORE, Plaintiff(s) pray(s) for relief and judgment against Defendants and all such further relief that this Court deems equitable and just as set forth in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial and any additional relief to which Plaintiff(s) may be entitled.

Date: Jun 5 2023

Bum parson

HARRIS, KEENAN & GOLDFARB Attorneys for Plaintiff The Woolworth Building 233 Broadway, Suite 900 New York, New York 10279 Tel: (212) 393-1000

Tel.: (212) 393-1000 Fax: (212) 267-2110

Primary Email: bgoldfarb@hkglaw.com

BLAKE G. GOLDFARB New York Bar No. 4892907